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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,875	05/14/2002	Jay A Fournier	021238-503	- 8681

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EXAMINER

WALLS, DIONNE A

ART UNIT PAPER NUMBER

1731

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,875

Applicant(s)

FOURNIER ET AL.

Examiner

Dionne A. Walls

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-18, 20 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25 and 26 is/are allowed.
- 6) ☒ Claim(s) 2, 3, 5-12, 14, 18, 20, 24, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 4, 13, 15-17, 23 and 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on March 25, 2005 has been entered.

Double Patenting

2. Claim 28 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 25. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3, 5-12, 14, 18, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al (US. Pat. No. 5,060,6784).

Brown et al discloses nearly all that is recited in the claims (see entire document, specifically col. 3, lines 31, and 59-62; and col. 9, lines 33-37) since it discloses a cigarette having a wrapper which includes a burn modifier up to 15% (which may comprise one or more chemicals), in addition to other compounds, to result in a cigarette having a reduced amount of sidestream smoke. Monoammonium phosphate is the preferred burn modifier, but also included is potassium or sodium citrate. The Examiner construes the monoammonium phosphate burn modifier as corresponding to the claimed ammonium-containing "filler", since, as one having ordinary skill in the art would have known that such a modifier can be added to the papermaking furnish to affect the properties of the resulting cigarette wrapper (which is the purpose/function of a "filler"). While there may be no specific articulation, in Brown et al, that said ammonium-containing compound is provided in an amount effective to reduce aldehyde content, the Examiner believes that this is obviously the case. First, Brown et al states that the particular paper compositions of its invention function by avoiding the production of aldehydes during smolder of the cigarette (see col. 3, lines 59-62). This suggests that the various additives, including the burn modifier, act to reduce the content of aldehyde in the cigarette smoke. Even though Brown et al may not mention that it is the monoammonium phosphate that reduces the aldehyde content, it follows that this compound would effectuate this result to some extent since it is well - known/evident that when heated at temperatures reached during smoking, ammonium salts release ammonia gas (in addition to carbon dioxide and water), which then would reduce the level of aldehyde in the cigarette smoke by chemical reaction. (This theory

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is even clear from Applicant's Table 1 on page 8 of the instant specification). Therefore, it follows that the monoammonium phosphate would contribute to the reduction of the aldehyde content in the smoke generated by the cigarette of Brown et al.

5. Claims 24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arzonico et al (US. Pat. No. 5,271,419).

Arzonico discloses nearly all that is recited in the claim (see entire document) since it discloses a double-wrapper cigarette which is provided with an outer wrapper, which is formed of paper containing a loading material ("filler") of magnesium hydroxide, and other materials (such as alkali metal salts), and an inner wrapper which contains tobacco material (in addition to activated charcoal particles). While there is no specific teaching that the filler of the outer paper wrapper is effective to reduce the gaseous components in the mainstream smoke, it follows that the magnesium hydroxide/alkali metal salt filler for the outer wrapper, and the activated charcoal particles of the inner wrapper would be instrumental in converting/absorbing at least some of the harmful components in the cigarette smoke, which would reduce the content of gaseous components in mainstream smoke.

Allowable Subject Matter

6. Claims 25-26 are allowed.

7. Claims 4, 13, 15-17, 23, 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

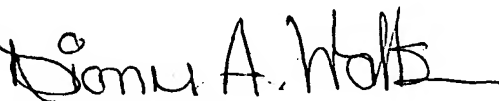
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (571) 272-1195. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dionne A. Walls
Primary Examiner
Art Unit 1731

April 3, 2005